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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,076
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Joseph M. Butscher (Reg. No. 48,326)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/27/2010 appealing from the Office action mailed 08/14/2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1 – 34 are pending; claims 1 – 34 stand rejected.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,915,528	MCKENNA	6-2005
US 2002/014975 A1	SEO	10-2002

"ReplayTV 4000 Users Guide",
<http://rioaudio.com/support/replaytv/downloads/ReplayTV4000UsersGuide.12.17.pdf>,
SONICblue (2001). pp. i - 82.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter for the reasons given below in the 35 USC 112 written description rejection. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which

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it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 27 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, said claims reference a 'third home' and media 'from a third home'.

4. Claims 28 and 32 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, said claims reference transferring media to "both of a media peripheral".

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1 - 6, 8 – 15 and 17 - 24 rejected under 35 U.S.C. 102(a) as being anticipated by McKenna (US 6,915,528 B1).

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7. Regarding claim 1, McKenna shows a method for supporting communication of media, the method comprising controlling the communication of the media from a television (Figs. 6, 15, col. 4 lines 43 – 54) in a home location (see Fig. 1, STB 102 and TV 104 of the left side of the page, and/or Fig. 15, STB 102a and TV 104) within a media processing system (media processing system being composed of, for example, STB 102a, 102b, both TV's 104 and Broadcast Center's 110 of Fig. 15), without consuming the media by said television during said controlling, wherein said media processing system comprises a plurality of media processing devices at a plurality of geographic locations (Figs. 6, 10 and 15, col. 6 lines 20 - 30); and

transferring the media from a first media processing device at a first geographic location that is remotely located from the home location (Fig. 1 and Fig. 15, Broadcast Center 110) to at least a second media processing device at a second geographic location that is also remotely located from the home location (Fig. 1, STB 102 and TV 104 on the right side of the page, and/or Fig. 15, STB 102a and the TV 104 on the right side of the page) according to said controlling communication (for example, the “send” command of Fig. 15, item 504f) from said television in the home location (Fig. 1, col. 5 lines 17 – 29, col. 6 lines 20 - 30, col. 15 line 65 - col. 16 line 23).

8. Regarding claim 11, McKenna shows a machine-readable storage having stored thereon, a computer program having at least one code section for supporting communication of media, the at least one code section being executable by a machine for causing the machine to perform steps comprising controlling the communication of the media from a television (Figs. 6, 15, col. 4 lines 43 – 54) in a home location within a

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media processing system, without consuming the media by said television during said controlling, wherein said media processing system comprises a plurality of media processing devices at a plurality of geographic locations (Figs. 6 and 10, col. 6 lines 20 - 30); and

transferring the media from a first media processing device at a first geographic location that is remotely located from the home location to at least a second media processing device at a second geographic location that is also remotely located from the home location according to said controlling communication from said television in the home

location (Fig. 1, col. 5 lines 17 – 29, col. 6 lines 20 - 30, col. 15 line 65 - col. 16 line 23).

9. Regarding claims 2 and 12, McKenna further shows generating at least one command from said television causing said transfer of the media (Figs. 6 – 8, col. 11 line 38 – col. 12 line 5 and col. 12 lines 63 - 65).

10. Regarding claims 3 and 13, McKenna further shows receiving at least one command that results in said transfer of the media from said first geographic location to said second geographic location (Figs. 6 – 8, col. 11 line 38 – col. 12 line 5 and col. 12 lines 63 - 65).

11. Regarding claims 4 and 14, McKenna further shows receiving at least one request by said television for said controlling communication of the media (col. 6 lines 20 – 30, col. 11 line 38 - col. 12 line 5, Figs. 6 - 8).

12. Regarding claims 5 and 15, McKenna further shows responding to said received request, said response resulting in said transfer of the media from said first geographic

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location to said second geographic location (col. 6 lines 20 – 30, col. 11 line 38 - col. 12 line 5, Figs. 6 – 8).

13. Regarding claims 6 and 16, McKenna further shows wherein said first geographic location and said second geographic location correspond to a location of one or more of a media peripheral, a media processing system, a media storage system, a personal computer and a third party media provider (Figs. 1, 6 and 15).

14. Regarding claims 8 and 18, McKenna further shows displaying a user interface on a display of said television for said controlling communication of said transfer of the media (Figs. 6 – 8).

15. Regarding claims 9 and 19, McKenna further shows scheduling said transfer of the media from said first geographic location to at least said second geographic location utilizing said television without consuming the media during said transfer (Figs. 6, 8, 9 – 11).

16. Regarding claims 10 and 20, McKenna further shows storing said transferred media in at least one of said first geographic location and said second geographic location (col. 8 lines 20 – 35, col. 11 lines 37 – 45, col. 14 lines 15 -20, col. 15 line 65 – col. 16 line 22).

17. Regarding claim 21, McKenna further shows a system for supporting communication of media, the system comprising a media peripheral at a first geographic location (Fig. 15, items 104 + 102A)

a television within a media processing system at a home location that is remotely located from the first geographic location, said television is utilized to arrange media

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delivery from a second geographic location that is remotely located from said home location to the media peripheral at the first geographic location for playback on said media peripheral (Figs. 6, 10, 15 and col. 6 lines 20 - 30, col. 9 lines 37 - 40, col. 15 line 65 - col. 16 line 7); and

a communication pathway between the first geographic location and the second geographic location that operates independent of said television through which the media is delivered (Fig. 15 item 101).

18. Regarding claim 22, McKenna further shows wherein said television generates at least one command that causes said media delivery (Figs. 6-8, col. 11 line 38 - col. 12 line 15, col. 12 lines 63 - 65).

19. Regarding claim 23, McKenna further shows wherein said television responds to said at least one command resulting in said media delivery (Figs. 6-8, col. 11 line 38 - col. 12 line 15, col. 12 lines 63 - 65).

20. Regarding claim 24, McKenna further shows wherein said television displays a user interface that is utilized to control said media delivery (Fig. 6).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

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Patentability shall not be negated by the manner in which the invention was made.

22. Claims 7, 17, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of SONICblue (ReplayTV 4000 Users Guide, 2001; where the features of the ReplayTV 4000).

23. Regarding claim 7, McKenna shows claim.

McKenna does not show explicitly wherein said first geographic location and said second geographic location comprise different residence locations.

SONICblue shows wherein said first geographic location and said second geographic location comprise different residence locations (pgs. 55, 59 - 60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of SONICblue in order to use the known technique of improved content sharing features taught by SONICblue in the similar device of McKenna's STB (where SONICblue's DVR, pg. 1 and 2, is similar to the STB described by McKenna in col. 4 lines 51 – 54) to yield the predictable result of an STB/DVR with expanding sharing functions and other features taught and recommended by SONICblue (SONICblue, pgs. 1 and 2).

24. Regarding claim 17, McKenna shows claim 11.

McKenna does not show explicitly wherein said first geographic location and said second geographic location comprise different residence locations.

SONICblue shows wherein said first geographic location and said second geographic location comprise different residence locations (pgs. 55, 59 - 60).

It would have been obvious to one of ordinary skill in the art at the time of the

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invention to modify the disclosure of McKenna with that of SONICblue in order to use the known technique of improved content sharing features taught by SONICblue in the similar device of McKenna's STB (where SONICblue's DVR, pg. 1 and 2, is similar to the STB described by McKenna in col. 4 lines 51 – 54) to yield the predictable result of an STB/DVR with expanding sharing functions and other features taught and recommended by SONICblue (SONICblue, pgs. 1 and 2).

25. Regarding claim 25, McKenna shows claim 24.

McKenna does not explicitly show wherein said user interface provides an indication of said media peripheral.

SonicBLUE shows wherein said user interface provides an indication of said media peripheral (SONICblue, Chapter 1, pg. 5, Chapter 30, pgs. 20 and 35, Chapter 5, pg. 57).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of SONICblue in order to use the known techniques for improving content sharing functionality and usability taught by SONICblue in the similar device of McKenna's STB (where SONICblue's DVR, pg. 1 and 2, is similar to the STB described by McKenna in col. 4 lines 51 – 54) to yield the predictable result of an STB/DVR with expanding sharing functions, including the interface for said functions, and the other features taught and recommended by SONICblue (SONICblue, pgs. 1 and 2).

26. Regarding claim 26, McKenna in view of SonicBLUE further show wherein upon selection of said indication of said media peripheral in said user interface, said media

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delivery is initiated (SONICblue, Chapter 3, pgs. 27-28, Chapter. 5, pg. 60).

27. Claims 27 – 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenna in view of Seo (US 2002/0147975 A1).

28. Regarding claim 27, McKenna shows a system supporting communication of media, the system comprising a media peripheral located at a first home (Fig. 1 STB 102 on the right of page),

a television, within a media processing system, located at a second home (Fig. 1, items 102 and 104 on the left of page) that is remotely located from the first home, wherein said television is utilized to arrange delivery of media from a third location that is remotely located from said first and second homes (Fig.1, Broadcast Center 110 on the left of the page) to said media peripheral at said first home (Fig. 1, col. 5 lines 18 – 29, col. 6 lines 19 - 29).

McKenna thus shows said transfer of media, but McKenna does not show where a home can be the source of the media.

Seo shows where a home can be the source of the media (Fig. 1, [11-12, 21-27]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of Seo and apply Seo's known techniques for improving content sharing functionality (Seo, [8-9,21]) to a known device (the STB of McKenna, col. 4 lines 51 – 54, which is analogous to Seo's set top box, Seo

Fig. 1 and [8-12]) ready for improvement to yield the predictable result of a STB with the extended capabilities for sharing taught by Seo ([13]).

29. Regarding claim 28, McKenna in view of Seo further show wherein said television (Fig. 1, TV 104 on the left of the page) transfers stored media to one or both of a media peripheral located at said first home (McKenna showing transferring from the remote Third Location/Broadcast Center 110 to the remote First Home/STB 102 and TV 104 on the right of the page) and/or another media peripheral remotely located with respect to said first home (Seo, [11-12, 27], showing where the media can be stored at a home and transferred from a home).

30. Regarding claim 29, McKenna in view of Seo further show wherein said television schedules said delivery of media to said media peripheral (Seo [11-12], McKenna, Figs. 6, 8-9, 11).

31. Regarding claim 30, McKenna in view of Seo further show wherein said television redirects delivery of media to said media peripheral without said television at least one of receiving and consuming the media (Seo, [11-12, 21-27]).

32. Regarding claim 31, McKenna shows a system supporting communication of media,

a television, within a media processing system, located at a second home (Fig. 1, items 102 and 104 on the left of page) that is remotely located from a a media peripheral located at a first home (Fig. 1 STB 102 on the right of page), wherein said television is utilized to arrange delivery of media from a third location that is remotely located from said first and second homes (Fig.1, Broadcast Center 110 on the left of the

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page) to said media peripheral at said first home (Fig. 1, col. 5 lines 18 – 29, col. 6 lines 19 - 29).

McKenna thus shows said transfer of media, but McKenna does not show where a home can be the source of the media.

Seo shows where a home can be the source of the media (Fig. 1, [11-12, 21-27]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of Seo and apply Seo's known techniques for improving content sharing functionality (Seo, [8-9,21]) to a known device (the STB of McKenna, col. 4 lines 51 – 54, which is analogous to Seo's set top box, Seo Fig. 1 and [8-12]) ready for improvement to yield the predictable result of a STB with the extended capabilities for sharing taught by Seo ([13]).

33. Regarding claim 32, McKenna in view of Seo further show wherein said television (Fig. 1, TV 104 on the left of the page) transfers stored media to one or both of a media peripheral located at said first home (McKenna showing transferring from the remote Third Location/Broadcast Center 110 to the remote First Home/STB 102 and TV 104 on the right of the page) and/or another media peripheral remotely located with respect to said first home (Seo, [11-12, 27], showing where the media can be stored at a home and transferred from a home).

34. Regarding claim 33, McKenna in view of Seo further show wherein said television schedules said delivery of media to said media peripheral (Seo [11-12], McKenna, Figs. 6, 8-9, 11).

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35. Regarding claim 34, McKenna in view of Seo further show wherein said television redirects delivery of media to said media peripheral without said television at least one of receiving and consuming the media (Seo, [11-12, 21-27]).

(10) Response to Argument

A. On page 7, Appellant argues the rejections made under 35 U.S.C. 112, first paragraph. Claims 27 and 31 were rejected for failing to comply with the written description requirement regarding the language “third home” and media “from a third home”. Appellant argues that the specification recites:

“[t]ransfer of the media from the first location to one or more other locations” (Specification, pg. 4 lines 5 – 18)

and that the Specification further recites that the first location may be a a “user’s home” (Specification, pg. 8 lines 26 - 27)

and that the Specification further recites

“the remote location 102 may include, for example, a friends home” (Specification, pg. 9 lines 4 – 5).

In response to A:

Appellant’s Fig. 1 shows a “User’s Home”, item 101. Appellant’s Fig. 1 also shows a “Remote Location”, item 102. The Examiner agrees that Appellant provides support for said first location being a “user’s home”

and "Remote Location" being a "second home"; for example Appellant's Fig. 3 show both a "User's Home 303" and "Parent's Home 310".

However, the language

"[t]ransfer of the media from the first location to one or more other locations"

provides no support for transferring media from a first home to a third home, as arranged by a second home. Appellant's above citations from their Specification similar provide no support for transferring media from a first home to a third home, as arranged by a second home.

Appellant also points to their Specification on page 9, lines 4 - 5.

Page 9 lines 1 – 5 describe a transport

"that may link the user's home 101, the remote location 102 ... the remote location 102 may include ... a friends home".

However, the Examiner has not taken the position that transfer between a first and second home is not supported. In other words, the Examiner agrees that transfer between the above recited "user's home" and "friend's home" is indeed supported.

The Examiner's position is that the language directed to the claimed "third home" and "from a third home" is not supported.

Appellant's Specification, including the sections recited in the pending Appeal fail to provide support for a "third home" and "from a third

home".

B. Continuing on page 7, Appellant continues to argue the rejections made under 35 U.S.C. 112, first paragraph where claims 27 and 31 were rejected for failing to comply with the written description requirement. Appellant argues that support is provided for "third home" and media transferred "from a third home" based on the Specification reciting:

"third... party may subsequently transfer or push detailed advertisement media, for example, to the media processing system 116 at the first location or user's home 101 via the communication infrastructure 105" (Specification, page 15, lines 11-14).

In response to B:

Page 15 lines 1 – 14 discuss requesting media, such as commercials

"provided by a third (3rd) party such as the external support system 104".

Said "external support system" is referring to item 104 in Appellant's Fig. 1.

Though the "Remote Location", item 102 of Appellant's Fig. 1, may be construed as a "second home" based on Appellant's Specification, said "External Support System" is never described as a "third home".

Appellant's Fig. 1 shows first home/user's home 101 and remote location/second home 102 as both containing common items (PC, PDA, Media Peripheral, Home Appliance(s), etc.).

However, Fig. 1 shows item 104, External Support System as instead containing completely different items such as commercial services, alpha (numeric) processing services, Appliance Support Services, etc.

Based on Appellants recitation above from page 15, it appears that Appellant is arguing that "External Support System 104" of Fig. 1 corresponds to a third home. However, there is no teaching or indication in Appellants specification or drawings to support this assertion. Rather, Appellant's Specification and drawings show "External Support System 104" of Fig.1 as containing completely different items than the examples of "homes".

C. On page 8, Appellant continues to argue the rejections made under 35 U.S.C. 112, first paragraph. Appellant specifically argues that

"The Examiner seems to be maintaining this rejection simply because the specification does not specifically recite 'third home.'"

In response to C:

The Examiner agrees that Appellant is not required to use the exact

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language “third home” or “from a third home” to provide written description for said terms. However, Appellant's Specification not only fails to use specifically recite said terms, but fails to provide any support for them, either explicit or implicit.

Appellant has provided direct citations from their Specification as addressed by the Examiner in items A and B above. However, said citations and the rest of Appellant's Specification fail to provide written description for the claim language “third home” or “from a third home”.

Furthermore, Appellant's Specification lacks support for the resulting structure claimed through the use of the language "third home"; that a user at a second home arranges delivered from a third home to a first home.

D. Continuing on page 8, Appellant continues to argue the rejections made under 35 U.S.C. 112, first paragraph. Appellant argues that

“as shown above, the specification clearly indicates multiple locations, which may be homes”

In response to D:

Appellant's Specification does include multiple locations and also includes homes. However, there is no support for a “third home” or “from a third home” as used in claims 27 and 31. Merely supporting “multiple

locations” does not support the arrangement recited in claims 27 and 31.

For example, claim 27 recites that a second home arranges delivery of media from third home to a first home.

However, Appellant’s Specification and figures fail to provide written description for this arrangement. Appellant seems to argue, through citing their Specification on page 15 lines 11 – 14, that External Support System 104 of Fig. 1 should be construed as support for a “third home”. Though said “External Support System” may represent a “third party”, as described on page 15 line 11, the Examiner does not agree that it is reasonable to construe the existence of a third party/entity as providing written description for a third "home".

Appellant’s describe the items that may be at a home on page 9 lines 6 through 13. Appellant’s also describe the items that may be at an “external support system” on page 11, lines 8 – 12. There are no items listed as common between a “home” and an “external support system”.

Furthermore, even if the “external support system” were interpreted somehow as a home (which this Examiner does not believe is reasonable), Appellant’s Specification and provided citations fail to provide support for a user at a second home arranging delivery of media from an "external support system"/third home to a first home. Appellant's citation merely describes that an “external support system” may deliver a commercial, which is entirely different than the claim language of claims

27 and 31.

E. On the bottom of page 8 and continuing to page 9, Appellant argues the rejections of claims 28 and 32 under 35 U.S.C.112, first paragraph; said claims were rejected based use of the language "both of a media peripheral"; said language not being disclosed in the Specification.

Appellant argues the claim language reciting transferring media to

"both of a media peripheral located a said first home and/or another media peripheral remotely located".

Appellant argues that the Specification supports this claim language based on describing

"The exchange of media may also take place between a television and one or more media peripherals 110, 111, 112, 113 or media storage devices 103, 106, 107." (Specification, page 13, lines 9 – 10).

In response to E:

Appellant's Specification, and above recitation, does support that media may be exchanged between a television and a "media peripheral located a said first home" (such as items 110 and 112).

Appellant's Specification, and above recitation, also supports that media may be exchanged between a television and a "media peripheral

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remotely located” (such as items 112 and 113).

Antecedent basis is provided for said television recited in claim 28 in claim 27; claim 27 recites that said television is located at a “second home” (claim 27, paragraph 3, line 1).

Claim 28 thus recites a television [at a second home] transferring media to both and first home and another location remote to said first home.

However, exchanging media between a television and one or more media peripherals or storage devices, as supported by the Specification, is not the same thing as a television at a second home transferring to “both a media peripheral at a first home . . . [and] another media peripheral remotely located with respect to said first home”.

F. On page 9 and continuing to page 10, Appellant argues the rejection of claim 1. Appellant argues that

“Therefore, the claim recites three different locations:

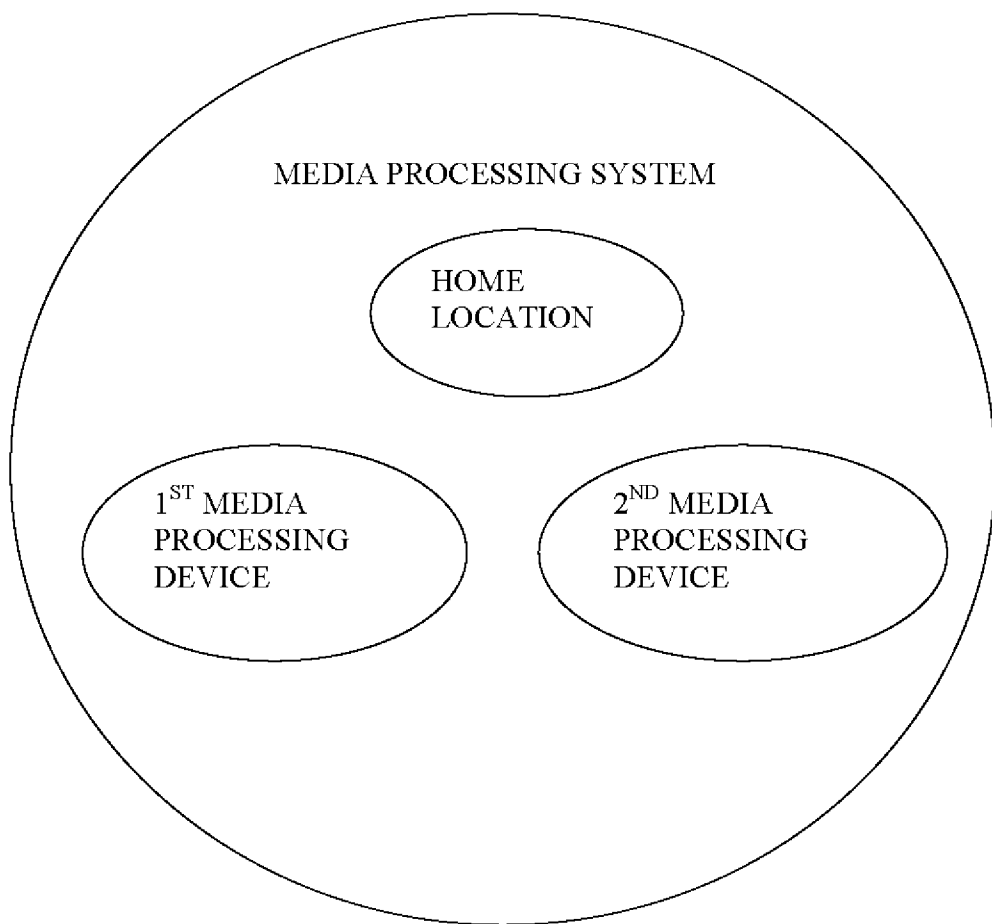
(1) the home location, (2) the first geographic location, and (3) the second geographic location, each of which is separate and distinct from one another.”

In response to F:

The following illustration is intended to further clarify the Examiner's

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interpretation of Appellant's claim language, as well as how McKenna reads on said claim language. As the below Picture 1 shows, the Examiner interprets claim 1 as including a "media processing system", and "within" said system, a "home location", a "first media processing device" and a "second media processing device".



PICTURE 1

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G. Continuing on page 10, Appellant continues to argue claim 1, specifically that

"claim 1 does not recite that media is being transferred from the home location to the first or second geographic location (or from one of the first and second geographic locations to the home location)"

but that

"Instead, the television in the home location provides controlling of communication that results in the transfer of media from the first location to the second location."

In response to G:

The Examiner agrees with the above interpretation of the claim language; claim 1 indeed does not positively recite or require that the media is sent from the home location but rather that the home location is providing "controlling of communication".

As Appellant argues above, claim 1 does positively recite "transferring the media from a first location to a second location".

However, claim 1 does not recite that the home location may not store media or that the home location may not be a sender of media; the home location merely must control the transfer of media.

McKenna recites that "a first STB 102 may send a video

transmission upstream to a first broadcast center 110, then to a second broadcast center 110, and finally downstream to a second STB 102” (McKenna, col. 6 lines 25 – 30).

This represents the claimed “controlling communication” as the first STB 102 of McKenna is the one that controls and initiates the transfer of media.

As McKenna, col. 6 lines 25 – 30 notes, the media is transferred from “first broadcast center 110, then to a second broadcast center 110, and finally downstream to a second STB 102”. Fig. 1 of McKenna makes this transmission relationship clear as there is no way to connect the left STB 102 to the right STB 102 without passing through Broadcast Centers 110.

McKenna also makes it clear that providing such media is the purpose of broadcast centers. McKenna recites in col. 5 lines 20 – 25 that a broadcast center (also referred to as a ‘head-end’) “rout[es] video signals and other data to and **from** the various STBs 102” (emphasis added).

Appellant thus appears to be arguing that the video must “originate” at the first media processing device. However, such a limitation is not recited in the pending claim language nor is it required by the Appellant’s specification.

Even if the language “originate” were recited, McKenna teaches

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that the Broadcast Centers are the origins, relative to the home locations, of media content. For example, McKenna, col. 6 lines 7 – 10, recites that "A broadcast center 110 may receive television programming for distribution to the STBs".

The "controlling communication" from the home location (said home location represented by McKenna's STB 102 + 104 on the left of McKenna's Fig. 1) thus results in media being transmitted "from" the first media processing device (Broadcast Center 110), said media ultimately being delivered "to" the second media processing device (represented by McKenna's STB 102 + 104 on the right of McKenna's Fig. 1).

H. Continuing on page 10, Appellant continues to argue claim 1, now addressing McKenna. Appellant argues that

"while McKenna discloses that one PIO [program interface object] may propagate a 'record action' to other PIOs, McKenna does not describe, teach or suggest that media is being sent between locations (e.g., from a first geographic location to a second location) based on a command from a separate location (e.g., a home location).

In response to H:

The claimed subject matter discussed above can be found in McKenna's Fig. 1.

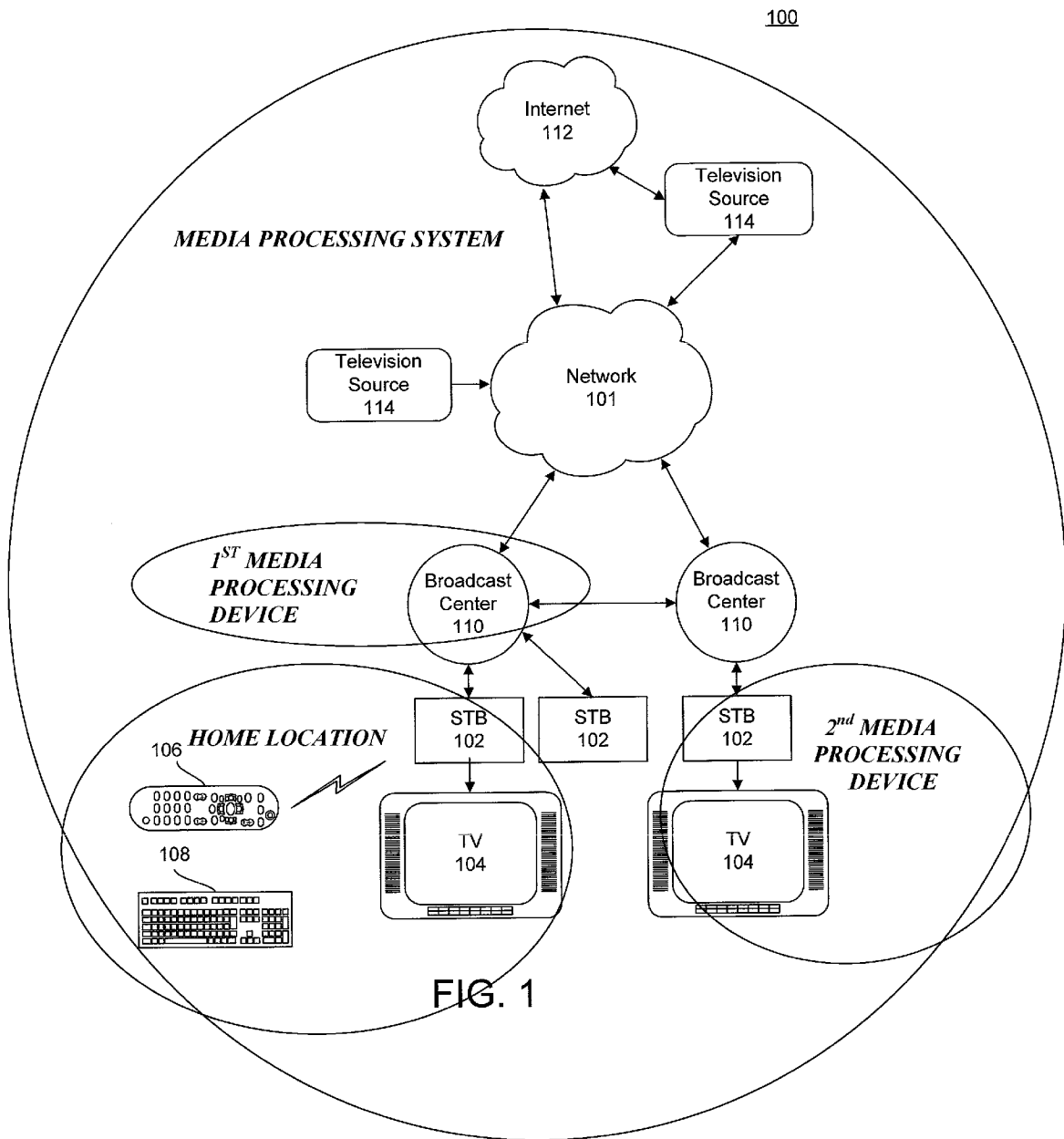
For Example, the claimed "home location" is represented by McKenna's "STB 102" (on the left of McKenna, Fig.1), "TV 104" (on the left of McKenna, Fig. 1), remote control "106" and keyboard "108".

The claimed "first media processing device" can be represented by McKenna's "Broadcast Center 110" (on the left of McKenna, Fig. 1).

The claimed "second media processing device is represented by McKenna's "STB 102" (on the right of McKenna, Fig.1) and "TV 104" (on the right of McKenna, Fig. 1).

The PICTURE 2 below provides further illustration. Said PICTURE 2 corresponds to Fig. 1 of McKenna, with additional comments shown via bolded text and circles added by the Examiner for clarification.

Note that the "media processing system" contains at least the home location, first processing device and second processing device.



PICTURE 2 (based on Fig. 1 of McKenna)

The media is transferred “from” the first media processing device/broadcast center 110 to the second media processing device/STB 102 +

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TV 104 (on the right of PICTURE 2). This media transfer is “according to controlling communication from said television” as described in col. 6 lines 20 – 30 of McKenna. The STB on the left of McKenna’s Fig. 1 initiates and controls the transfer of media. The transferred media, as noted col. 6 lines 20 – 30 of McKenna, ultimately travels “from” broadcast center 110 to STB 102 + TV 104 (on the right of Fig. 1 of McKenna).

The on STB 102 and TV 104 on the left of McKenna’s Fig. 1 of McKenna corresponds to claimed “home location”; broadcast center 110 corresponds to the claimed “first media processing device” and STB 102 + TV 104 (on the right of Fig. 1 of McKenna) corresponds to the “second media processing device”.

The transferred media may be seen as being sent “upstream” from claimed the home location (as described by McKenna in col. 6 lines 20 – 30). However, that the media must “originate” at the claimed “first media processing device” does not correspond to claimed subject matter.

As the Examiner noted above, even if the language “originate” were recited in Appellants claims, McKenna teaches that the Broadcast Centers are the origins, relative to the home locations, of media content. For example, McKenna, col. 6 lines 7 – 10, recites that “A broadcast center 110 may receive television programming for distribution **to the STBs**” (emphasis added).

- I. Continuing on page 10 through page 11, Appellant argues that in McKenna’s Fig. 15,

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“it is clear that the visual indicator 508a stored on STB 102a (and being shown in television 104 connected to STB 102a) is being sent from STB 102a to STB 102b. However, McKenna does not describe, teach or suggest that one location is commanding media to be sent from STB 102a to STB 102b, or vice versa.”

In response to I:

When media is received by STB 102b of McKenna's Fig. 15, it is “from” Broadcast Center 110.

As noted by the Examiner above, McKenna recites in col. 5 lines 20 – 25 that a broadcast center (also referred to as a ‘head-end’) “rout[es] video signals and other data to and from the various STBs 102”.

The transferred media may not “originate” at Broadcast Center 110, however, the media is transmitted from the left Broadcast Center 110 to the right Broadcast Center 110 and ultimately to STB 102b.

This transmission is initiated/controlled by the sending STB 102a. Fig. 15 shows said sending via the bolding of the text “Send” in item 504f. As discussed above, McKenna col. 6 lines 20 – 30 and Fig. 1 further discusses a STB (such as STB 102a) controlling the communication of information from Broadcast Center 110 to another STB (such as STB 102b).

J. Continuing on page 11, Appellant argues

“The Office Action has not cited to anything in McKenna that describes, teaches or suggests that media is sent from one location to another based on a command from a location that is separate, distinct and remote from the first two locations”

In response to J:

As shown in the picture labeled PICTURE 2 (shown in the above section “In response to H”), the Examiner’s has mapped the claimed subject matter to the teachings of McKenna, specifically in a manner that shows that McKenna’s home location, first media processing device and second media processing device are separate, distinct and remote.

The Broadcast Center of McKenna is described in col. 5 line 20 – 23 as being “a centrally-located facility within a community ... where television programming is packaged together for transmission **to customer homes**” (emphasis added). Thus media delivered to STBs, is, from the perspective of the STBs, “from” the Broadcast Centers”.

The “centrally located” Broadcast Centers are thus clearly separate, distinct and remote from STB 102a and STB 102b.

As shown in Fig. 15, item 504f, STB 102a issues “controlling communication” resulting in media ultimately being sent “from” Broadcast

Center 110 to STB 102b.

K. Continuing further on page 11 through page 12, Appellant argues that McKenna does not show claims 1, 11 and 21, specifically emphasizing: transferring media, a first geographic location, a second geographic location, and controlling communication from the home location.

In response to K:

As shown above in PICTURE 2 (shown in the above section “In response to H”) a first geographic location, a second geographic location and home location are clearly shown by McKenna. Fig. 15, item 504f (clicking/issuing a “Send” command) shows the claim language “according to a controlling communication from said television in the home location”.

This “controlling communication” results in media being sent from remote location “Broadcast Center 110” to remote location STB “102b”.

L. Continuing on page 12, Appellant argues that the Final Office Action (of 8/14/2009) “reflects the Office Action’s fundamental misunderstanding of the claim language”. Appellant refers to col. 6 lines 25 – 30 of McKenna, arguing that:

“The cited portion does not indicate that the STB 102 controls transfer of media from a first broadcast center to another broadcast

center or from one of those broadcast centers to another STB 102”

In response to L:

Appellant’s claim language “controlling communication” is represented in McKenna by the first STB (on the left side of McKenna’s Fig. 1) in the “home location” initiating/sending the command for the media transfer (see “send a video” col. 6 line 26).

The video is “from” the broadcast centers as the broadcast centers of McKenna are where “television programming is received from a ... source ... and **packaged together for transmission to customer homes**. [The STB also] “rout[e] video signals and other data to and from the various STBs 102” (emphasis added, McKenna, col. 5 lines 18 - 27).

As described in McKenna, col. 5 lines 18 – 27, for video to reach a STB in McKenna's disclosure, it must be "from" a Broadcast Center.

Where the video "originates" is not claimed by Appellant. Appellant appears to be arguing that in one embodiment or interpretation of McKenna, media may be stored on STB 102a of Fig. 15 before being sent “from” the left Broadcast Center 110 to the right Broadcast Center 110, and then sent “from” the right Broadcast Center 110 to STB 102b.

However, this interpretation of McKenna meets the limitations of Appellant’s claim language. The media is still “according to said controlling communication” of STB 102a, said media as is still ultimately “from” a

location remote to STB 102a and remote to STB 102b.

M. Continuing further on page 12, Appellant argues that in McKenna, “the cited portion merely notes a sequence of transfers from the STB 102. First, the first STB 102 sends a video transmission to a first broadcast center 110. Then, the first STB 102 sends the transmission to another broadcast center 110. Finally, the first STB 102 may send the transmission to another STB. In all scenarios, however, it is the first STB 102 sending the transmission, but not the first STB 102 controlling transmission between components that are separate and distinct from the first STB 102”

In response to M:

When the media is transferred from a Broadcast Center 110 to a second STB 102b the media is reasonably interpreted as being “from” the Broadcast Center 110. When media is exchanged, the last step of said exchange is a transmission of media from broadcast center 110 to STB 102b (see Fig. 15 of McKenna). As the STB 102a has no method of sending video directly to STB 102b, any media received by STB 102b can reasonably be interpreted as being from Broadcast Center 110. McKenna’s description of Broadcast Center’s support this interpretation, as Broadcast Center’s are described as where television programming is

“packaged together for transmission to customer homes” (McKenna, col. 5 line 23).

The arrangement shown in Figs. 1 and 15 of McKenna, as well as the description of the roles of Broadcast Center's described by McKenna in col. 5 lines 15 – 28, make it clear that Broadcast Centers enable STBs to both send and receive media. In McKenna's disclosure a STB is not capable of sending media directly to another STB (there are no network connections pictured or described by McKenna that would allow this, nor are STBs described by McKenna as being capable of such a feat). Figs. 1 and 15 and col. 5 lines 15 – 28 illustrate that any transmission regarding STBs must be “packaged together for transmission” by Broadcast Centers (McKenna, col. 5 line 23). As the media is “packaged together for transmission” by Broadcast Centers, it can be reasonably interpreted that the media is “from” the Broadcast Centers.

STB 102a of Fig. 15 of McKenna also issues the controlling communication to transfer the media via the “send” command of Fig. 15 item 504f, and thus the transfer is “according to said controlling communication”.

As noted above, Appellant appears to be arguing that the claim language “from” be interpreted as “originate”. However, this is not recited does not correspond to limitations required by Appellant's claims.

N. On pages 12 through 13, Appellant argues that

“the home location, as recited in claim 1, for example, is controlling the transfer of media from a first geographic location to a second geographic location (not merely from the home location to the first location, and then from the home location to the second location), both of which are separate and distinct from the home location”

In response to N:

Regarding Appellant’s argument “not merely from the home location to the first location, and then from the home location to the second location”, McKenna does not describe a situation where media can be sent " from the home location to the first location, and then from the home location to the second location".

In McKenna, for the media to reach the second location (i.e., STB 102b of Fig. 15, McKenna) the media must be from the Broadcast Center. As noted by the Examiner above, the arrangement shown in Figs. 1 and 15 of McKenna, as well as the description of the roles of Broadcast Center’s described by McKenna in col. 5 lines 15 – 28, make it clear that Broadcast Centers enable STBs to both send and receive media. In McKenna's disclosure a STB is not capable of sending media directly to another STB (there are no network connections pictured or described by McKenna that would allow this, nor are STBs described by McKenna as

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being capable of such a feat). Figs. 1 and 15 and col. 5 lines 15 – 28 illustrate that any transmission regarding STBs must be “packaged together for transmission” by Broadcast Centers (McKenna, col. 5 line 23).

As the media is “packaged together for transmission” by Broadcast Centers, it can be reasonably interpreted that the media is “from” the Broadcast Centers.

Col. 7 lines 43 – 45 further describe this arrangement; that the STB “includes a network interface 302 for communicating with the network 101 via the broadcast center 110”.

- O. On page 13, Appellant argues claims 4 and 14. Appellant argues “none of the cited portions [of McKenna] describes, teaches, or suggests ‘receiving at least one request by said television for said controlling communication of the media [from said television in the home location]”

In response to O:

The issuance of the “Send” instruction, shown in Fig. 15 item 504f of McKenna, represents Appellant's claimed “request by said television for said controlling communication”. Activating the “Send” menu item represents a request for the “Send” controlling communication to occur, said communication resulting in media being sent ultimately from

Broadcast Center 110 to STB 102b (McKenna, Fig. 15).

McKenna, col. 16 lines 15 – 22, further describes this arrangement where the user "may select .. the send action" and that "The send action may include a code for interacting with the communication component 1502 (where 1502 is part of STB 102a, Fig. 15) to transmit a copy ... to the destination STB 102b".

As the sections above, such as "In response to N", said transmission, due to the design of McKenna, will inherently be "from" Broadcast Center 110.

P. Continuing on page 13 through page 14 Appellant addresses claims 9 through 19, arguing that in McKenna's Figures 6, 8, and 9-11,

"there is nothing in them that describes, teaches, or suggests scheduling the transfer of media from a first location to a second location using a television in a home location that is separate and distinct from the first and second locations".

In response to P:

As shown in PICTURE 2, presented above in the section "In response to H:", the claimed home location is represented by the STB and TV on the left of said PICTURE 2 (or the left of correspond Fig. 1 of McKenna); this also corresponds to STB 102a and TV 104 on the left of

McKenna's Fig. 15.

Said STB 102a of Fig. 15 is used to control the communication of the media as it is the device that receives the 'send' command from the user and then initiates and directs the transfer of media to the STB 102b (Fig. 15 of McKenna).

This content is sent from the Broadcast Center 110 (on the left of Fig. 15 of McKenna) and ultimately arrives at STB 102b.

As noted above, the media content is inherently "from" the Broadcast Center 110 as in McKenna's disclosure, it is the Broadcast Centers 110 that provide media transfer functionality and route, transmit and ultimately deliver the media.

McKenna describes this in col. 5 lines 23 – 23, stating that broadcast centers receive content from a source and then at the broadcast center the content is "packaged together for transmission to customer homes". McKenna continues in col. 6 lines 19 – 21, stating that "Broadcast centers 110 may be used to enable audio and video communications between STBs 102."

Thus in the disclosure of McKenna, one user at their home, using the STB, utilizes a Broadcast Center to send media to another remote STB. When the content arrives at the remote, destination STB, it thus is "from" the Broadcast Center.

When the media arrives at the destination STB, the media has

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been transferred to said destination by said Broadcast Center (where McKenna describes that media is “packaged together for transmission” by Broadcast Centers, col. 5 line 23). Thus it can be reasonably interpreted that the media is “from” the Broadcast Centers.

Q. On pages 14 through 15, Appellant argues the rejections made under 35 USC 103, McKenna in view of Seo. Appellant emphasizes that

“rejections on obviousness cannot be sustained with mere conclusory statements”

and that

“[a]ll words in a claim must be considered”.

In response to Q:

The Examiner has clarified the motivation for improving the disclosure of McKenna in the present response, stating that

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of Seo and apply Seo’s known techniques for improving content sharing functionality (Seo, [8-9,21]) to a known device (the STB of McKenna, col. 4 lines 51 – 54, which is analogous to Seo’s set top box, Seo Fig. 1 and [8-12]) ready for improvement to yield the predictable result of a STB with the extended capabilities for sharing taught by Seo ([13]).

Furthermore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of McKenna with that of Seo and perform the simple substitution of McKenna's STB (McKenna, col. 4 lines 57 – 55) with the set top box of Seo to obtain the predictable result of having access to the enhanced functionality and increased value taught and recommended by Seo ([8, 13]).

The Examiner agrees with Appellant's statement that "[a]ll words in a claim must be considered"; however, Appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references

R. On page 15 through, Appellant argues claim 27, specifically that

"McKenna does not describe, teach, or suggest a television in one location arranging delivery from another location to still another location".

In response to R:

In the Final Rejection mailed on 08/14/2009, the Examiner stated that "McKenna does not show where said third location, the source of the media, is another home".

The language Appellant is arguing, recited in "R." above, does not correspond to the language of claim 27. Claim 27 recites three "home" locations, not "another location" and "still another location".

Regarding the hypothetical "another location" and "still another location" claim language, McKenna teaches said limitations as discussed by the Examiner in the above section "In response to H".

Said "home location" would correspond to the "home location" shown in PICTURE 2 in the above section "In response to H".

Said "another location" would correspond to the "1st media processing device" shown in PICTURE 2 in the above section "In response to H".

Said "still another location" would correspond to the "2nd media processing device" shown in PICTURE 2 in the above section "In response to H".

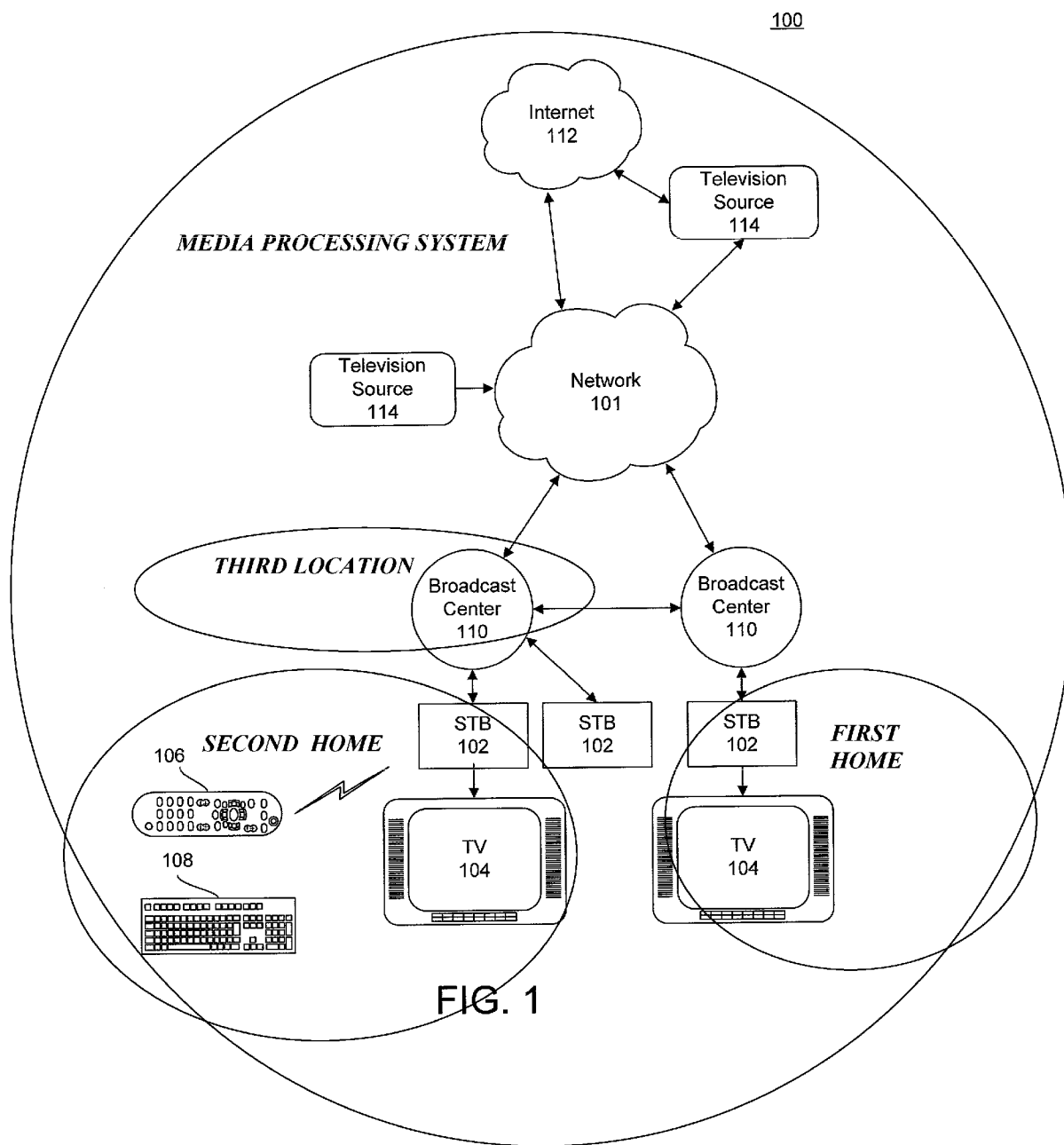
S. On page 16, Appellant argues claims 29 and 33, arguing that

"the claims are clear that the television at the second home, schedules delivery of media from a third home that is remotely located from said first and second homes to said media peripheral at said first home. The Office Action does not cite to anything in McKenna or Seo that describes, teach, or suggests such scheduling of media delivery".

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In response to S:

To provide additional clarification of the Examiner's mapping of the teachings of McKenna to Appellant's claim language, the below PICTURE 3 is provided.



PICTURE 3

Like PICTURE 2, presented in the above section "In response to H",
PICTURE 3 is derived from Fig. 1 of McKenna.

As PICTURE 3 illustrates, McKenna shows a “second home” that arranges delivery of media from a “third location” to a “first home”. This is described in McKenna’s Specification, for example, in col. 6 lines 19 – 28. This general arrangement and mapping of McKenna is also discussed in detail above, for example in the section “In response to H”.

Said STB 102a of Fig. 15, corresponding to the “SECOND HOME” shown above in PICTURE 3, is used to control the communication of the media as said STB 102a/SECOND HOME is the device that receives the ‘send’ command from the user and then initiates and directs the transfer of media to the STB 102b/FIRST HOME (Fig. 15 item 504f of McKenna showing said “send” command).

This content is sent from the Broadcast Center 110 (on the left of Fig. 15 of McKenna, shown as the Third Location in PICTURE 3 above) and ultimately arrives at STB 102b of Fig. 15/SECOND HOME of PICTURE 3 above.

As noted above, the media content is inherently “from” the Broadcast Center 110/THIRD LOCATION as in McKenna’s disclosure, it is the Broadcast Centers 110 that provide media transfer functionality.

McKenna describes this in col. 5 lines 23 – 23, stating that broadcast centers receive content from a “source” and then at the broadcast center the content is “packaged together for transmission to customer homes”. McKenna continues in col. 6 lines 19 – 21, stating that “Broadcast centers 110 may be used to enable audio and video communications between STBs 102.”

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Thus in the disclosure of McKenna, one user at their home, using their STB, utilizes a Broadcast Center/Third Location to send media to another remote STB. When the content arrives at the remote, destination STB, it thus is "from" the Broadcast Center/Third Location.

When the media arrives at the destination STB, the media has been transferred to said destination by said Broadcast Center (where McKenna describes that media is "packaged together for transmission" by Broadcast Centers, col. 5 line 23). Thus it can be reasonably interpreted that the media is "from" the Broadcast Centers/Third Location.

However, McKenna does not show where the third location, the source of the media, is another home.

Seo was cited in the Final Rejection mailed 08/14/2009 to teach this subject matter. Thus Seo, rather than McKenna, was relied upon as teaching where a home location can be the source of media (Seo, Fig. 1, [11-12, 21-27]).

T. Concluding on page 16, Appellant argues

"For at least the reasons discussed above, the Appellants respectfully submit that the pending claims are allowable"

In response to T:

Appellant's conclusion, which relies on the arguments addressed above, is not persuasive for the reasons given above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/John MacIlwinen/

Examiner, 2442

/Philip C Lee/

Acting SPE of Art Unit 2442

Conferees:

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